IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 9539 of 2005

Between:

The Hyderabad Co-operative Central Trading Society Limited

5-8-655, Nampally Station Road, Hyderabad-1, rep by General Manager, Sri. E. yadagiri S/o E.Mallaiah R/o Hyderabad

..... PETITIONER

AND

1 The Deputy Commissioner of labour Hyderabad (Twin Cities)

T. Anjaiah Shramika Bhavan, RTC Cross Roads,
Hyderabad
2 The Assistant Commissioner of Labour, Circle-III and Controlling

Authority, Under Payment of Gratu
Act 1972 T. Anjaiah Shramika Bhavan, RTC Cross Roads, Hyderabad-20
3 The Assistant Labour Officer, Office of the Deputy Commissioner

of Labour Hyderabad (Twin Cities),
T. Anjaiah Shramika Bhavan, RTC Cross Roads, Hyderabad-20
4 M. Vajender Rao S/o Late M. Srinivasa Rao
r/o H. No. 3-10-79, Gokhale Nagar Colony,

Ramanthapur Hyderabad-13

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records from the 2nd and 3rd respondents and issue an appropriate Writ, order or direction, particularly one in the nature of Writ of Mandamus declaring that the action of 3rd respondent in issuing notice in proceedings NO. B1/912/2005, dated 11-4-2005 and trying to take coercive steps to recover the amount of gratuity when the review application is pending before the 2nd respondent as illegal unjust, contrary to law, arbitrary without jurisdiction and violative of Articles 14 and 21 of the Constitution of India and grant all consequential benefits and pass such other order or orders as deemed fit and proper under

the circumstances of the case.

Counsel for the Petitioner: MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondent Nos.1 to 3: GP FOR LABOUR

The Court at the admission stage made the following:

ORDER:

Challenging the action of the 3rd respondent in issuing notice in Proceedings No.B1/912/2005, dated 11.04.2005 and trying to take coercive steps to recover the amount of gratuity, the present writ petition is filed.

Heard the learned Counsel for the petitioner and the learned Government Pleader for Labour.

As per the proceedings of the Controlling Authority under the Payment of Gratuity Act, in P.G.No.1/2004, dated 20.12.2004 the petitioner was directed to pay gratuity of Rs.2,25,000/- by means of a demand draft within 30 days from the date of receipt of the order, failing which the 4th respondent herein will be entitled to interest @ 6% per annum on the gratuity amount. In pursuance of the same, the impugned notice was issued to the petitioner. Challenging the same, the present writ petition is filed.

The learned counsel for the petitioner contended that the gratuity amount has not been properly calculated by the authority, and hence the petitioner preferred a review thereon and the same is pending before the 2nd respondent. He further contends that the petitioner is always ready to pay the gratuity as per his calculation.

The impugned notice dated 11.04.2005 is a consequential order. The authority who issued the impugned notice is not under challenge. As per the orders dated 20.12.2004 in P.G.No.1/2004 on the file of the Controlling Authority under the

Payment of Gratuity Act, the petitioner is bound to pay the amount as determined by the authority towards gratuity. The petitioner cannot made the payment of gratuity as determined by the authority simple because the review application is pending. The writ petition is totally devoid of merit.

Therefore, the Writ Petition is dismissed. No order as to costs.

Dated: 26.04.2005

Dsr

Note:

Issue CC in two days

B/o

Dsr

ASSISTANT REGISTRAR

To:

1. The Deputy Commissioner of Labour,

Hyderabad (Twin Cities)

T.Anjaiah Shramika Bhavan,

R.T.C.Cross Roads, Hyderabad-20

2. The Assistant Commissioner of Labour,

Circle-III and Controlling Authority under

Payment of Gratuity Act,1972,

T.Anjaiah Shramika Bhavan,

R.T.C.Cross Roads, Hyderabad-20

3. The Assistant Labour Officer,

Office of the Deputy Commissioner of Labour,

Hyderabad (Twin Cities),

T.Anjaiah Shramika Bhavan,

R.T.C.Cross Roads, Hyderabad-20

4. Two CCs to the Government Pleader for Labour,

High Court Buildings, Hyderabad (OUT)

5. Two CD copies